



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/705,738

11/11/2003

Kristi Bryant

KCX-707 (19616)

4994

22827

7590

05/25/2006

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,738

Applicant(s)

BRYANT ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/17/06</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed March 16, 2006, with respect to the rejection(s) of claim(s) 1-29 under 35 U.S.C. 103 have been fully considered but are not persuasive. With respect to applicant's argument that Kudo does not teach every limitation of claim 1, Examiner disagrees. The phrase "any combination of" followed by a group of items is interpreted as necessitating a subgroup of those items that consists of at least one of said items and up to and including all of the items. The citation of *SuperGuide Corp. v DirecTV* concerns the interpretation of claim language setting forth a group of items following the preposition "of", as applicant correctly notes. However, applicant is only arguing part of the matter, as the words that the preposition "of" is preceded by are of critical importance. For example, "each of" and "all of" would be interpreted as requiring that an element contain all of the items in the group. However the phrase "a combination of" has an entirely different meaning and interpretation.

With respect to applicant's argument that there is no support in the teaching of Kudo that altering the pattern of embossing taught by Kudo such that substantially only the outwardly visible portions have such pattern disposed thereon, Examiner agrees and has withdrawn the rejection of claim 7 under 35 U.S.C. 103 in view of Kudo alone and rejected claim 7 anew under 35 U.S.C. 103 in view of a newly found prior art reference.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on March 17, 2006 was filed after the mailing date of the Application on November 11, 2003. The submission is in compliance

with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo et al (U.S. Patent Application Publication No. 2003/0187415).

With respect to **Claims 1-4,10,12,20,21,22,23,29**: Kudo teaches a colored panty liner 1 that is disposed within an undergarment of matching non-white color (design). Liner 1 (personal care product) is comprised of liquid-permeable topsheet 14, intermediate sheet 13, absorbent sheet 12 and liquid-impermeable backsheet 11. (¶¶ 0053) Kudo teaches liquid passage holes 14 of circular (geometric) shape embossed in a regular arrangement (pattern) on topsheet 14 to enhance the clothlike feeling of said topsheet. (¶¶ 0058,0060) As can be seen from Fig. 1 taught by Kudo, the embossed pattern is defined substantially entirely over the topsheet 14 (claim 23).

Kudo does not teach aligning the pattern on the topsheet with the matching pattern on the undergarment. Embossing a substantially identical pattern on the undergarment is an obvious modification to one of ordinary skill in the art as a matching embossed pattern scheme disposed in a position aligned with the same pattern on said topsheet or backsheet of said liner would accomplish concealment of liner 1 and would also provide a softer feel on said undergarment which also contact the user's skin.

With respect to **Claim 3**: Kudo teaches that each of topsheet 14, intermediate sheet 13, core 12 and backsheet 11 are colored to match each other and the undergarment. (§ 0079)

With respect to **Claim 5, 24-27**: As can be seen from Fig. 1, Kudo teaches a centrally located strip defined by said embossed pattern, but does not teach the opposite, i.e. a pattern defined along two lateral opposite sides of a central longitudinal strip, however it would be obvious to one of ordinary skill in the art to modify the embossed pattern taught by Kudo so as to be present along two lateral opposite side edges of a longitudinal strip as the embossing would still provide the increased softness.

With respect to **Claim 9**: Kudo teaches wing portions 10 formed from the portions of topsheet 14 and backsheet 11 that extend beyond the side edges of core 12 and are sealed together. (§ 0103)

With respect to **Claim 11**: Kudo does not teach a printed pattern on either topsheet 14 or backsheet 11, however it would be obvious to one of ordinary skill in the art to print a pattern as opposed to embossing said pattern, as they are alternate methods of creating the same pattern.

With respect to **Claims 13,14,16,19**: With respect to steps (a) and (b), Kudo teaches a colored panty liner 1 that is disposed within an undergarment of matching non-white color (design).

Liner 1 (personal care product) is comprised of liquid-permeable topsheet 14, intermediate sheet 13, absorbent sheet 12 and liquid-impermeable backsheet 11. (§ 0053) Kudo teaches liquid passage holes 14 of circular (geometric) shape embossed in a regular arrangement (pattern) on topsheet 14 to enhance the clothlike feeling of said topsheet so as to be visible to a

user during use (claim 14). (¶¶ 0058,0060) As can be seen from Fig. 1 taught by Kudo, the embossed pattern is defined substantially entirely over the topsheet 14 (claim 16).

With respect to step (c), Kudo does not teach aligning the pattern on the topsheet with the matching pattern on the undergarment. Embossing a substantially identical pattern on the undergarment is an obvious modification to one of ordinary skill in the art as a matching embossed pattern scheme disposed in a position aligned with the same pattern on said topsheet or backsheet of said liner would accomplish concealment of liner 1 and would also provide a softer feel on said undergarment which also contact the user's skin.

With respect to **Claim 28**: Please see the rejections of Claims 1 and 9 as collectively, these rejections address the limitations set forth in Claim 29.

Claims 6-8,15,17,18 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo et al ('415) in view of Minoguchi et al (U.S. Patent Application Publication No. 2005/0054253).

With respect to **claims 6-8,15,17,18,25**: Kudo does not teach providing an embossing pattern on the backsheet. Minoguchi teaches an absorbent article comprising an embossed backsheet (i.e. embossing pattern is disposed substantially entirely over said backsheet (claims 17,27)). Minoguchi teaches that embossing provides a more clothlike appearance ('253, ¶ 0087), therefore it would be obvious to one of ordinary skill in the art to emboss the backsheet taught by Kudo, either entirely or substantially only in the portions outwardly visible when said liner is placed within said undergarment, to have a clothlike appearance as taught by Minoguchi as such an appearance serves to further successfully conceal the article in a cloth undergarment.

Art Unit: 3761

Such appearance would serve to further successfully conceal said article whether the embossing pattern is disposed entirely over the backsheet or substantially only the portions most outwardly visible when the article is placed in said undergarment. With respect to claim 18, the combined teaching of Kudo and Minoguchi teaches disposing embossed patterns substantially entirely over both of said topsheet and said backsheet.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER



Application/Control Number: 10/705,738
Art Unit: 3761

Page 7